

Members

Sen. Richard Bray, Chairperson
Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Rep. Robert Kuzman
Rep. Dale Sturtz
Rep. Ralph Ayres
Rep. Kathy Richardson
Justice Randall T. Shepard
Timothy Curley
Ernest Yelton
David Lewis
Sarah Taylor



COMMISSION ON COURTS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Mark Goodpaster, Fiscal Analyst for the
Commission
Andrew Roesener, Attorney for the Commission

Authority: IC 33-1-15

MEETING MINUTES¹

Meeting Date: September 27, 2002
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Richard Bray, Chairperson; Sen. David Ford; Sen. William Alexa; Sen. Timothy Lanane; Rep. Kathy Richardson; Justice Randall T. Shepard; Timothy Curley; Ernest Yelton; David Lewis; Sarah Taylor.

Members Absent: Rep. Robert Kuzman; Rep. Dale Sturtz; Rep. Ralph Ayres.

The meeting was called to order at 10:20 a.m.

Chairman Bray told the Commission members that the next meeting will be the final meeting for the interim.

The minutes of the previous meeting held on Sept. 12 were reviewed and approved by the Commission members.

Chief Justice Shepard introduced Justice Frank Sullivan, Judge Thomas Milligan, and Jeff Bercovitz. He noted that these presenters would talk about three aspects of court operations at the state and local level: how information is maintained, how judicial officers are compensated, and how work is distributed among court officers.

Justice Frank Sullivan

¹ Exhibits and other materials referenced in these minutes are appended to the end of these minutes and are available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Justice Sullivan's comments about the efforts of the Judicial Technology and Automation Committee are included in Attachment A of these minutes.

During questions and answers from the Commission members, Justice Sullivan made the following points:

- Concerning a time line for completion, Marion County and two other counties will likely have an information system operating in about 12 months and that any county who wants the information system will have it available in about three years.
- Concerning funding, the State Supreme Court has requested a \$3 million allocation from the Indiana Pay Phone Fund in its budget request for each year of the 2004-05 biennium.
- Proceeds from the Automated Record Fee are being monitored to determine whether the revenue received is similar to the projected amount. Senator Bray asked the staff to report to the Commission on revenue from the fee at the next meeting.
- Current law may or may not allow the court information system to have access to the NCIC National Crime Information Center. This status will be confirmed at the next meeting.
- There has been an effort to collaborate with the Secretary of State about establishing a voter registration information system.

Hon. Thomas Milligan, Montgomery Circuit Court and President of the Indiana Judges Association

Judge Milligan asked the Commission members to consider adopting resolutions which would support the following initiatives:

1) A salary increase for all judges. He suggested that the Commission and General Assembly consider the following salary schedule:

Trial Court Judges	\$109,200
Appellate Level Judges	\$130,200
Supreme Court	\$135,200

He told the Commission members that Indiana ranks 45th among states for judicial salaries and that Indiana is the only state to not increase the salaries of judges over the past five years.

2) A permanent law to include the Indiana judiciary in the state's employee contingency plan. This would allow the judiciary to receive salary increases along with other state employees in years in which the General Assembly does not enact pay raises for the judiciary.

3) A salary commission to address the needs of all statewide elected officials, legislators, and the judiciary.

Senator Bray asked the staff to examine the reported revenues from court fees and their relationship to judicial salaries for the final meeting.

Rep. Richardson also wished to examine the cost for certified mail and whether the fee structure was adequate to recover these costs.

Jeff Bercovitz, Indiana Judicial Center

Mr. Berkovitz's power point presentation on the changes in the weighted caseload methodology is included in Attachment B of these minutes.

Rep. Clyde Kersey, Vigo County Issues

Rep. Kersey told the Commission members that the General Assembly passed a bill authorizing an additional court for Vigo County during the 2002 General Assembly. However, the Governor vetoed this bill because of the additional costs associated with creating a new court.

He told the Commission members that the judges in Vigo County requested that he discuss this issue with the Commission. Currently, the weighted caseload measurements suggest that Vigo County needs three additional judges.

Two of the Commission members made further comments on the situation in Vigo County. Mr. Curley indicated that Vigo County has a cumulative fund for the Vigo County court house to add space to accommodate another court. Judge Yelton told the Commission members that the judges in Vigo County have redistributed cases among themselves and with courts in adjacent counties. However, there is still the need for an additional court.

Rep. Kersey raised a second issue about retirement credit for judges who serve on a pro tempore basis. In this case, Judge Barbara Brugnaux was appointed pro tempore in 1994 to serve out the term of another person who was removed for disciplinary actions in Vigo Superior Court #5. Rep. Kersey told the Commission members that Judge Brugnaux received full salary and benefits and was bound by the same ethical obligations as all other elected and appointed judges. In 1996, she was officially appointed judge. Rep. Kersey indicated that Judge Brugnaux has served on the bench for 9 years but has 6.5 years credit. Rep. Kersey indicated that the judge would be willing to purchase the retirement time.

Lilia Judson, Executive Director of the Office of State Court Administration, told the Commission that judges who are appointed on a pro tempore basis are not considered to be "regular" judges under IC 33-13-8-2. (See Attachment C)

Chief Justice Shepard commented on the trial rules that allow for the appointment of judge pro tempore. (See Attachment D) Under Trial Rule 63 B, if sitting judges are unable to perform their duties of office because of physical or mental infirmity or fail, refuse, or neglect to perform their duties without good cause, then the Supreme Court

shall appoint a judge pro tempore for the remainder of these terms or until these judges are able to resume their duties. These judges are paid the same salary as a “regular” judge. Under Trial Rule 63 E, a judge who is unable to attend and preside at his court for any cause may appoint in writing a judge pro tempore to conduct the business of this court during his absence. Locally appointed judges pro tempore are paid \$25 per day. This is intended to be a short- term appointment.

Judge Yelton also raised the issue of the restrictions under IC 33-13-9.1-4 and IC 33-13-10.1-6 (see Attachment E) that restrict a retiree under the Judges Retirement Fund to working in state-paid positions that are either a senior judge or a judge pro tempore. He indicated that some retired judges had expressed interest in serving as a prosecuting attorney, but are limited by statute to state-paid positions that are senior judges or judge pro tempore. Judge Yelton noted that a retired judge cannot become a deputy prosecuting attorney.

Hon. Paul Cherry, DeKalb Circuit, and Hon. Kevin Wallace, DeKalb Superior Court:

The judges noted that they have appeared before the Commission since 1996 to petition for an additional court in DeKalb County. They indicated that both the DeKalb County commissioners and council unanimously support the need for a new superior court in the county.

They indicated that according to the most recent weighted caseload statistics, DeKalb County needs 3.76 judicial officers, and the county currently has 2.25. The 0.25 position refers to a small claims referee who hears nothing but small claims cases. If the new court would be created, the small claims referee position would be eliminated.

They also stated that a hearing room and office space are both available.

Finally, they concluded that the Indiana Supreme Court has directed the county judges to examine case management on a multi-county basis. They indicated that the counties comprising District 3 in northeastern Indiana need 14 new courts and that DeKalb has the greatest need for an additional court.

Hon. Frank Nardi, Owen Circuit Court

Judge Nardi told the Commission that while the weighted caseload system does not support the need for an additional magistrate in Owen County. He noted that the weighted caseload methodology does not factor in the time required for special judge cases. He indicated that he accepts a number of special judge assignments from other counties over the course of a year. Judge Yelton noted that the weighted caseload methodology does not reflect special judge cases, which would increase the court’s workload.

Judge Nardi also told the Commission to consider that he has the only court of general jurisdiction in Owen County, and he is subject to all the deadlines specified by the Indiana Supreme Court and by the General Assembly. Consequently, he sometimes experiences difficulty in holding hearings in a timely manner.

Judge Nardi also commented on the powers of a half-time referee. He indicated that statutory authority for what the referee can do is limited. Consequently, the referee can start a case, but can not finish the case. As an example, if a criminal defendant wishes to plead guilty, the referee cannot dispose of the case.

Hon. Lee Baker, Pike Circuit Court

Judge Baker told the Commission that, like Owen County, the Pike Circuit Court is the only general jurisdiction court in Pike County. He told the Commission members that the number of criminal prosecutions in Pike County for methamphetamine offenses is increasing. This causes problems for his court to provide court hearings within deadlines imposed by statute and trial court rules.

He also told the Commission that like Owen County, he is authorized to appoint a small claims referee who has limited powers. He noted that the county has adequate staff, chamber, and court rooms for an additional full-time judicial officer. He also told the Commission members that Owen County's council and commission support the conversion of the small claims referee to a magistrate.

Finally he told the Commission members that he plans to implement a drug court if a new magistrate is added since drug offenders make up a large part of the docket.

Sen. William Alexa, Juvenile Court Magistrates

Senator Alexa told the Commission that this issue has been before the legislature since 1995. He referred to a memo prepared by staff analyst Mark Goodpaster that estimated the cost of converting these court officers to totally state-paid court officers. (See Attachment F)

He said that there were 17 existing juvenile magistrate positions in nine counties in Indiana and indicated that it was likely an oversight that these judicial officers were not changed to fully state-paid magistrates in the 1995 salary bill. He suggested that since these magistrates are full-time judicial officers that they should be paid fully by the state General Fund.

Senator Bray announced that the date of the final meeting is set for Friday, October 18, at 10 a.m.

The meeting was adjourned at 12:15 p.m.

ATTACHMENT A**REMARKS OF INDIANA SUPREME COURT JUSTICE FRANK SULLIVAN, JR., TO
THE COMMISSION ON COURTS**

Indianapolis, Indiana
September 27, 2002

Mr. Chairman, I appreciate the opportunity to appear before the Commission on Courts to report on the Indiana Supreme Court Judicial Technology and Automation Project. This project is being conducted under the auspices of the Court's Judicial Technology and Automation Committee -- a committee we call JTAC -- which consists of nine judges from throughout the state. I serve as its chair.

The Judicial Technology and Automation Project seeks to equip every Indiana trial court with a 21st century "case management system" and to connect individual courts' case management systems with each other and with users of court information.

When I use the expression "case management system," I mean a computer program that enables a court to record each development in each of its cases, store that information, and then make it available to those who need it. It is, in short, an automated docket or CCS in which all the information recorded on all the cases pending in the court can be readily searched and retrieved.

While most Indiana counties have some type of computerized case management system, many of those systems do not utilize up-to-date technology. And few of those systems are connected with important state agencies like the Bureau of Motor Vehicles or the State Police so that information can be shared electronically. Nor does the present configuration of trial court case management systems permit the electronic sharing of court information across county lines or with the public. Finally, the present arrangement does not lend itself to providing statistical information to the Legislature, this Commission, and other policymakers.

The Indiana Supreme Court concluded that it would be in the best interest of our state to equip all Indiana courts with a comprehensive automated case management system that would: (1) allow Indiana trial courts and court clerks to manage their caseloads faster and more cost-effectively; (2) provide users of Indiana trial court information, notably law enforcement agencies, state policymakers, and the public, with more timely, accurate, and comprehensive information; and (3) reduce the cost of trial court operations borne by Indiana counties. We believe that when such a case management system is implemented statewide and electronically connected across county lines and with state agencies that and individuals who use court information, substantial benefits will accrue to those who need and use court information. For example:

(a) Citizens and lawyers will be able to check the status of their cases over the Internet.

(b) A court will be able to transmit electronically an order suspending (or reinstating) a driver's license to the Bureau of Motor Vehicles immediately

after making the ruling.

(c) The state will be able to have an extremely accurate electronic registry of all domestic violence protective orders issued by Indiana courts.

(d) A judge facing a criminal defendant in one county will be able to determine electronically whether there are charges pending against that defendant in any other county.

(e) Judges, court clerks, prosecutors, lawyers, and their staffs will be able to process electronically countless transactions that now are performed by hand.

In the last legislative session, the General Assembly passed legislation that provided us with the financial resources in the form of dedicated court filing fees to pursue this project. Each of the legislative members of this Commission was involved in that effort and we are deeply grateful to all of you. Since the end of the legislative session, we have engaged a major computer firm, Computer Associates Int'l, Inc., to design and implement a statewide case management system for all courts that wish to use it and are about one month into the intensive process of designing the new system.

In addition, Marion County -- which accounts for approximately one-fifth of the judicial business of the state -- has agreed to serve as a pilot county for initial testing of the new system. Sarah Taylor, a member of this Commission, has been instrumental in the development of our partnership with Marion County and we are grateful to her for her leadership.

Mr. Chairman, let me say just a few more words about what we are doing right now. On August 26, we began a critical two and one-half month period in the development process for the new case management system that we call "Discovery Sessions." During almost each week of this period, Computer Associates' staff has been and will be meeting in Indianapolis with different groups of court information users to introduce their core case management system that they have successfully implemented in Florida and to learn from the Indiana users how this core product will need to be modified and expanded to meet our needs. The user groups involved include prosecuting attorneys, public defenders, judges, clerks, court services personnel like probation officers, special jurisdiction court personnel, law enforcement officials, and private practice attorneys.

The size of the user groups attending the Discovery Sessions are kept relatively small (10 members or so) in order to be of the most benefit the development process. Judge Paul Mathias, of the Court of Appeals and the Vice-Chair of JTAC, has done a spectacular job in coordinating the complicated process of assigning interested users to the right user groups and I want to pay particular tribute to his efforts in this regard.

Last week we concluded the Discovery Sessions directed at the way the new system will handle criminal cases. More than 80 individuals, including judges, clerks, prosecutors, public defenders, and court services staff members from 23 different counties participated in sessions over 12 days. These sessions were extremely productive and have helped assure that our statewide case management system will reflect the needs

and experience of the users of court information. In short, this discovery process is helping us guarantee that the new case management system will not only be statewide in its reach but also be based on statewide input.

Mr. Chairman, let me stop at this point and respond to any questions.

ATTACHMENT B**JUDICIAL WEIGHTED
CASELOAD UPDATE 2002****COMMISSION ON COURTS**

September 27, 2002

Jeffrey Bercovitz, Director
Juvenile and Family Law
Indiana Judicial Center
115 West Washington Street, Suite 1075
Phone: (317) 232-1313 Fax: (317) 232-1313
jbercovi@courts.state.in.us

**Purpose of Weighted
Caseload**

- Provide an accurate measure to determine need for judicial resources
- Assist in allocation of judicial resources between types of cases
- Estimate the cost of legislative proposals and their impact on case processing

Development of Weighted Caseload

- Establish total time available to perform judicial functions for an average judicial officer
- Establish time needed for case related activities
- Website for full report:
www.in.gov/judiciary/center/committees/jud_admin/index.html

Weighted Caseload Methodology

- Time sheets kept by judges for judicial duties
 - Individual actions were recorded along with time spent
- Case files reviewed to determine the average number of judicial actions in each case type
 - Multiple years reviewed
- Average time per action x average no. of actions
- = Average time per case type



Weighted Caseload Methodology Continued

Case Time = Average judicial time per case from filing to disposition to post judgment action

Example: A case time of 111 minutes in a Juv. CHINS case means on average, this case type requires 111 minutes of judicial time over the entire case

Weighted Caseload Study Update 2002

- **130 judicial officers from 45 Indiana counties participated in study**
- **Judicial officers recorded 14,582 time entries**
- **8,023 judicial actions were reviewed from 3,608 randomly selected case files**
- **Cases were randomly selected by I.U. Public Opinion Laboratory**

Judicial Weighted Caseload Update Compared

<u>Type of Case</u>	<u>Time in Minutes: 2002</u>	<u>Time in Minutes: 1996</u>	<u>Difference</u>
• Juv. CHINS	111	112	-1
• Juv. Crime Delinq.	60	62	-2
• Civil Plenary	121	106	15
• Protection Orders	37	34	3
<u>New Categories</u>			
• Civil Collections	26		
• Mortgage Foreclosure	23		
• Murder	453	Part of CF Case type in 1996	
• A Felony	420	"	"
• B Felony	260	"	"
• C Felony	210	"	"

Weighted Caseload Study Conclusions

- New case types adopted
 - Civil Collections, Mortgage Foreclosure, (CP)
 - Capital Murder, Murder, A,B, and C Felony (CF)
- Case times on existing case times updated
 - Status Delinquents, Termination, Paternity, other
- JTAC case management system needed to update study in the future
- Follow-up needed in some areas
 - Capital Murder, Protection Orders, other

ATTACHMENT C

33-13-8-2

The following words and phrases as used in this chapter, unless different meanings are plainly indicated by their context, shall have the following respective meanings:

"Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

"His" and "widow" means "her" and "widower" in the event the participant is a woman.

"Fund" means the Indiana judges' retirement fund, the fund created by this chapter.

"Board" means the board of trustees of the public employees' retirement fund.

"Employer" means the state of Indiana.

"Judge" means any person who has served, is serving, or shall serve as a **regular** judge of any of the following courts:

Supreme court of the state of Indiana.

Court of appeals of the state of Indiana.

Circuit court of any judicial circuit.

Superior court of any county or counties.

Criminal court of any county having a separate criminal court.

Probate court of any county having a separate probate court.

Juvenile court of any county having a separate juvenile court.

Municipal court of any county.

County court of any county or counties.

"Participant" means any judge participating in the fund.

"Services" means the period beginning on the first day upon which any person first became a judge, whether such date is prior or subsequent to March 11, 1953, and ending on the date under consideration, including all intervening employment as a judge, following resignation or expiration of any term of election or appointment. Services in any fraction of a month shall be considered as a month of service. However, no more than one (1) month shall be credited for services in any one (1) calendar month. If a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office, but at a later period, or periods, is appointed or elected and serves as judge, the judge shall pay into said fund during all the periods served as judge, except as otherwise provided in this chapter, whether said periods be a connected period or disconnected period, but shall not be required to pay into said fund at any time when the judge is not serving as judge, or during any period of service as a senior judge under IC 33-4-8, except as otherwise provided in this chapter.

"Fiscal year" means the period beginning on July 1, in any year, and ending on June 30 of the succeeding year.

"Salary" means the total salary paid to any participant by the state of Indiana and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(Formerly: Acts 1953, c.157, s.2; Acts 1969, c.388, s.1; Acts 1974, P.L.140, SEC.1.)
As amended by Acts 1977, P.L.324, SEC.1; P.L.4-1983, SEC.15; P.L.293-1985, SEC.6;
P.L.334-1989(ss), SEC.31; P.L.5-1992, SEC.10; P.L.4-1992, SEC.13.

ATTACHMENT D: TRIAL RULE 63

Rule 63. Disability and unavailability of a judge

(A) Disability and unavailability after the trial or hearing. The judge who presides at the trial of a cause or a hearing at which evidence is received shall, if available, hear motions and make all decisions and rulings required to be made by the court relating to the evidence and the conduct of the trial or hearing after the trial or hearing is concluded. If the judge before whom the trial or hearing was held is not available by reason of death, sickness, absence or unwillingness to act, then any other judge regularly sitting in the judicial circuit or assigned to the cause may perform any of the duties to be performed by the court after the verdict is returned or the findings or decision of the court is filed; but if he is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial or new hearing, in whole or in part. The unavailability of any such trial or hearing judge shall be determined and shown by a court order made by the successor judge at any time.

(B) Judge pro tempore in case of disability and neglect. When by verified petition it shall be made to appear to the Supreme Court of Indiana that the regular or pro tempore judge of any named court in Indiana:

(1) is unable because of physical or mental infirmity to perform the duties of his office; or

(2) fails, refuses or neglects to perform the duties of his office without good cause, the Supreme Court shall issue an order to such judge accompanied by a copy of such petition requiring him to appear and show cause why a judge pro tempore shall not be appointed to perform the duties of his office. Such order shall be served at least ten [10] days before a day set for hearing, and may be sent by registered mail by the clerk of the Supreme Court or may be served in such other manner as the court may direct. If the Supreme Court is satisfied that the proof establishes the charge, it shall appoint a full time judge pro tempore to perform the sole duties of his office until the term of office is ended or until the judge's ability to resume his duties is established by his petition and proof at a hearing for that purpose.

(C) Qualifications and authority of a judge pro tempore. Any judge appointed under this or any other rule or law shall be an attorney in good standing at the bar of the Supreme Court of this state. In the event the Supreme Court of the state shall appoint a judge pro tempore under these provisions, a duly certified copy of the order and judgment of appointment of such judge pro tempore, attested by the chief justice, shall be issued to the person so appointed. If the person so appointed consents to serve, he shall be qualified as other judges are qualified. A certified copy of the order and judgment of appointment shall be filed with the clerk of the named court and entered in the appropriate records of said court. The person so appointed and qualified as a judge pro tempore shall perform the duties of the regular judge of the court, but always shall be subject to the continuing jurisdiction of the Supreme Court. In the event any judge pro tempore, appointed under the provisions of this rule shall fail to qualify and assume the duties of the regular judge of such court, or in the event such judge pro tempore fails to conduct the business of the court as provided by law, the clerk of the court shall notify the Supreme Court in writing of this fact. Upon the receipt of such notification, the Supreme Court may take such action in the premises, in order to further the administration of justice, as such court may deem to be necessary and just.

(D) Compensation of judge pro tempore. A judge pro tempore appointed by the Supreme Court under this rule shall receive a salary computed at the same rate as the regular judge commencing from the date he qualifies. A judge pro tempore appointed locally shall be paid twenty-five dollars \$25.00 for each day or part thereof actually served. The judge pro tempore shall be paid out of the respective county, city or town general fund, without an appropriation therefor, upon allowance by the board of county commissioners of

the county or council of the city or town in which the court is located. If he is appointed locally, the judge pro tempore shall present a claim to the board of county commissioners specifying the number of days or parts of days actually served, which claim shall be verified by the clerk of the court and the board shall allow the claim. If he is appointed by the Supreme Court, the judge shall present a claim to the board with a copy of his appointment from the Supreme Court, a statement showing the date of his qualification verified by the clerk and a request that he be paid in the same manner thereafter as a regular judge, and thereafter he shall be paid in the same manner as a regular judge. Nothing herein shall be construed to diminish in any manner the compensation of any regular judge so long as such regular judge continues in office.

(E) Judge pro tempore when judge is unable to attend. A judge who is unable to attend and preside at his court for any cause may appoint in writing a judge pro tempore to conduct the business of this court during his absence. The written appointment shall be entered in the records of the court. When duly sworn, or without being sworn if he is a judge of a court of this state, the judge pro tempore shall have the same authority during the period of his appointment as the judge he replaces. A judge appointed under this provision must meet the qualifications prescribed in subdivision (C) of this rule. Such judge shall be allowed the sum of \$25.00 for each day or part thereof actually served, per diem as provided in Rule 79(14) and in the manner provided by subdivision (D) of this rule. In his absence or when he shall be unable to make such appointment, the appointment may be made by the clerk of his court, or the deputy clerk assigned to his court or in his absence by any available county officer.

ATTACHMENT E

33-13-9.1-4

(a) Benefits provided under this section are subject to IC 33-13-8-3.5 and section 9 of this chapter.

(b) Any participant whose employment as judge by the employer is terminated, regardless of cause, shall be entitled to a retirement annuity beginning on the date specified by such participant in a written application therefor, if all the following conditions are met:

(1) The date upon which the annuity begins is not prior to the date of final termination of employment of such participant, or the date thirty (30) days prior to the receipt of such application by the board.

(2) The participant:

(A) has attained at least the age of sixty-two (62) and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving any salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

(c) The amount of the annual retirement benefit to which a participant who elects to accept retirement after June 30, 1977, and who is at least sixty-five (65) years of age or a participant who elects to accept retirement after June 30, 1999, and who is at least fifty-five (55) years of age and meets the requirements under subsection (b)(2)(B) is entitled equals the product of:

(1) the salary being paid for the office which the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. The amount of the annual retirement benefit to which a participant who elects to accept retirement before July 1, 1977, is entitled equals the average of the benefit computed under this subsection and the benefit the participant would have received under IC 33-13-8 as in effect on June 30, 1977.

(d) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (c), is less than the amount the participant would have received under IC 33-13-8 as in effect on June 30, 1977, the participant is entitled to receive that greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (c).

(e) Except as provided in subsection (b)(2)(B) and subsection (c), if a participant who elects to accept retirement after June 30, 1977, has not attained age sixty-five (65) years, the participant is entitled to receive a reduced annual retirement benefit which equals the benefit which would be payable if the participant were age sixty-five (65) reduced by one-tenth percent (0.1%) for

each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

(f) The amount of the annual benefit to which a participant who has become permanently disabled is entitled equals the product of:

(1) the salary being paid for the office which the participant held at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE B	
Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(g) The surviving spouse or surviving child or children, as designated by the participant, of any participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars (\$2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C	
Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(h) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (g)(2).

(i) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or
 (D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;
 the participant's surviving spouse or surviving child or children, as designated by the participant, is entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (g)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (e).

(j) Notwithstanding subsection (i), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (h).

(k) The annuity payable to a surviving child or children under subsection (g), (h), or (i) is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

As added by P.L.293-1985, SEC.12. Amended by P.L.55-1989, SEC.34; P.L.334-1989(ss), SEC.32; P.L.207-1991, SEC.4; P.L.282-1995, SEC.1; P.L.194-1999, SEC.1.

33-13-10.1-6

Sec. 6. Any participant whose employment as judge is terminated is entitled to a retirement benefit computed under section 7 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The date upon which the benefit begins is not before the date of final termination of employment of the participant or the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) has attained at least the age of sixty-two (62) and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving any salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

As added by P.L.293-1985, SEC.13. Amended by P.L.55-1989, SEC.41; P.L.207-1991, SEC.8; P.L.43-1997, SEC.5; P.L.194-1999, SEC.4.

ATTACHMENT F

Members

Sen. Richard Bray, Chairperson
Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Rep. Robert Kuzman
Rep. Dale Sturtz
Rep. Ralph Ayres
Rep. Kathy Richardson
Justice Randall T. Shepard
Timothy Curley
Ernest Yelton
David Lewis
Sarah Taylor



COMMISSION ON COURTS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Mark Goodpaster, Fiscal Analyst for the
Commission
Andrew Roesener, Attorney for the Commission

Authority: IC 33-1-15

To: Members of the Commission on Courts
From: Mark Goodpaster
Date: September 26, 2002
Re: Estimated Cost of State Assuming Total Costs of Juvenile Court
Magistrates

Under current law, the salary of juvenile magistrates is paid by both the county and the state. Currently, the county pays \$41,393 of the \$72,000 salary. Under this proposal, the state would pay the entire salary of these juvenile magistrates of which counties currently pay \$41,393.

Effect on the State: The following shows the additional costs to the state to assume this local share.

County Share of Juvenile Court Magistrate Salary		\$41,393
Employee Share of Public Employees Retirement Fund	+	\$1,242
Medical, Dental and Vision Insurance Costs (See Note)	+	\$3,017
County Share of Social Security Payments	+	<u>\$3,167</u>
Total Cost for Each Magistrate:		\$48,819
Number of Magistrates	x	<u>17</u>
Added Expenditures for the State		<u>\$829,915</u>

Note: The costs of health, dental and vision insurance for state employees is currently projected to be \$6,033 for FY 2003. It appears that roughly half of the juvenile court magistrates elect to receive these benefits from the counties in which the court is located and half elect to receive state paid benefits. Based on these assumptions, the additional cost to the state will be \$3,017 per magistrate.

Effect on Counties: The Office of State Court Administration reports that 17 juvenile court magistrates are employed in nine counties across Indiana. The estimated salary savings to these nine counties is \$703,681. Counties would also realize some additional costs for health insurance if the state assumes the costs of health insurance for the magistrates who elect to receive their health benefits from the county of employment.

Name	County	County Portion
Bobay, Craig J.	Allen	\$41,393
Boyer, Thomas	Allen	\$41,393
Morgan, Lori	Allen	\$41,393
Allen Total		\$124,179
Domine, Deborah	Elkhart	\$41,393
Elkhart Total		\$41,393
Lawson, Craig	Johnson	\$41,393
Johnson Total		\$41,393
Commons, Glenn D.	Lake	\$41,393
Gillis, Gregory A.	Lake	\$41,393
Miller, Jeffrey	Lake	\$41,393
Peller, Charlotte A.	Lake	\$41,393
Lake Total		\$165,572
Cartmel, Julianne	Marion	\$41,393
Gaither, Jeffrey	Marion	\$41,393
Orbison, Carol J.	Marion	\$41,393
Piazza, Christopher	Marion	\$41,393
Marion Total		\$165,572
Shanahan, John P	Porter	\$41,393
Porter Total		\$41,393
Miller, Jane W.	St. Joseph	\$41,393
St. Joseph Total		\$41,393
Moore, Ralph E.	Vanderburgh	\$41,393
Vanderburgh Total		\$41,393
Stagg, R. Paulette	Vigo	\$41,393
Vigo Total		\$41,393
Grand Total		<u>\$703,681</u>
Number of Magistrates	17	